

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES – GENERAL**

Case No.	SACV 24-01202-FWS (DFMx)	Date	September 4, 2024
Title	Marquise Bailey v. Yoseph T. Tesfalidet et al		

Present: The Honorable FRED W. SLAUGHTER, UNITED STATES DISTRICT JUDGE

Melissa H. Kunig

Not Reported

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

None Present

Attorneys Present for Defendants:

None Present

**Proceedings:** (IN CHAMBERS) ORDER TO SHOW CAUSE RE DISMISSAL FOR LACK OF PROSECUTION

“[I]t is the plaintiff’s responsibility to move a case toward a merits disposition.” *Thomas v. Kernan*, 2019 WL 8888200, at \*1 (C.D. Cal. July 10, 2019) (citing *Morris v. Morgan Stanley & Co.*, 942 F.2d 648, 652 (9th Cir. 1991)). That includes timely serving the complaint and filing a proof of service. Absent a showing of good cause, “[i]f a defendant is not served within 90 days after the complaint is filed, the court . . . *must* dismiss the action.” Fed. R. Civ. P. 4(m). Here, 90 days have passed since Plaintiff filed the Complaint, yet no proof of service has been filed. Accordingly, the court, on its own motion, hereby **ORDERS** Plaintiff to show cause in writing no later than **September 11, 2024**, why this action should not be dismissed for lack of prosecution. As an alternative to a written response by Plaintiff, the court will consider as an appropriate response to this OSC the filing of one of the following on or before the above date:

1. A Notice of Voluntary Dismissal (Fed. R. Civ. P. 41) as to **Defendant Roger L. Hughes as Trustee of The R&B Hughes Trust**, or
2. A Proof of Service of the Summons and Complaint. However, if the deadline to answer has passed by the time Plaintiff files the proof of service, the response to this Order will be deemed sufficient only if one of the following is also filed:
  - a. Plaintiff’s Request for Entry of Default as to *all Defendants* or Defendants’ Answer(s),
  - b. A stipulation extending Defendants’ time to respond to the Complaint that complies with Local Rule 8.3, or
  - c. A Notice of Voluntary Dismissal (Fed. R. Civ. P. 41) as to *all Defendants*.

No oral argument of this matter will be heard unless ordered by the court. The Order will stand submitted upon the filing of a timely and appropriate response. Failure to file a timely and appropriate response to this Order may result in dismissal without further notice or order from the court. See Fed. R. Civ. P. 41(b); L. R. 41-6; *Link v. Wabash R.R.*, 370 U.S. 626, 629 (1962) (“The authority of a federal trial court to dismiss a plaintiff’s action with prejudice because of his failure to

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prosecute cannot seriously be doubted.”); *Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005) (“[C]ourts may dismiss under Rule 41(b) *sua sponte*, at least under certain circumstances.”); *Ash v. Cvetkov*, 739 F.2d 493, 496 (9th Cir. 1984) (“It is within the inherent power of the court to *sua sponte* dismiss a case for lack of prosecution.”).

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